



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,648	03/23/2004	Andreas G. Kunschke	043336-9026-00	2575

23409 7590 02/11/2008
MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

EXAMINER

LIANG, LEONARD S

ART UNIT

PAPER NUMBER

2853

MAIL DATE

DELIVERY MODE

02/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,648

Applicant(s)

KUNSCHKE, ANDREAS G.

Examiner

LEONARD S. LIANG

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007 and 10 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 6-17, 19-21, 23, 24, 26-30 and 41-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41 and 42 is/are allowed.
- 6) ☒ Claim(s) 3-4, 6-10, 12-17, 19-21, 24, 26-30, 43-44 is/are rejected.
- 7) ☒ Claim(s) 11 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

In the response filed on 10/24/07, the Applicant stated, "Upon entry of this Amendment, claims 3, 4, 6-17, 19-21, 23, 24, 26-30, and 41-44 are pending in this application. By this Amendment, claim 40 is cancelled." The examiner will hereby examine claims 3, 4, 6-17, 19-21, 23, 24, 26-30, and 41-44.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-4, 6-10, 12-14, 16-17, 19-21, 24, 26-29, and 43-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Bronson et al (US Pat 4566382).

Bronson et al discloses:

- {claim 3} A coder assembly for printing on containers or on labels that can be applied to containers (figure 1); a base (figure 1, reference C, 10); a support member pivotably coupled to the base and cantilevered from the base (figure 1, reference 12); a coder supported by the support member and movable with the support member relative to the base (figure 1, references 13-14); and an adjustment mechanism coupled between the coder and the support member and configured to adjust the position of the coder with respect to the base (figure 1, references 35, 41); wherein the

adjustment mechanism is operable to move the coder along at least one of a substantially horizontal axis and a substantially vertical axis without using tools (figure 1; abstract)

- {claim 4} wherein the adjustment mechanism is operable to permit rotation of the coder about a substantially vertical axis (figure 1)
- {claim 6} wherein the coder assembly is adapted to be used with a bottling machine, the bottling machine defining a machine surface, and wherein the base is supported on the machine surface (naturally suggested by column 1, lines 7-26)
- {claim 7} wherein the support member is spaced from the machine surface such that no portion of the support member or the coder is in contact with the machine surface (figure 1, reference 12)
- {claim 8} further comprising a latch mechanism selectively locking the support member to the base so that the support member is substantially immovable with respect to the base (figure 2, reference 25-26)
- {claim 9} wherein the latch mechanism is operable to selectively lock and unlock the support member without using tools (figure 2, reference 25-26)
- {claim 10} further comprising a plurality of abutment members between the support member and the base, wherein the abutment members are configured to limit the spacing between the support member and the base (figure 1-2, reference 32, 41)
- {claim 12} wherein the plurality of abutment members comprise a plurality of set screws (figure 1-2, reference 32, 41)

- {claim 13} wherein a first abutment member spaces the support member from the base in a first operating position, and wherein a second abutment member spaces the support member from the base in a second operating position (figure 1-2, reference 32, 41; column 2, lines 32-60)
- {claim 14} wherein the coder is supported by the support member in a substantially upright position (figure 1, reference 13-14)
- {claim 16} wherein the support member is movable between a first operative position with respect to the base and a second operative position with respect to the base (abstract)
- {claim 17} A coder assembly for printing on containers or on labels that can be applied to containers (figure 1); a base (figure 1, reference C, 10); a support member movably coupled to the base (figure 1, reference 12); a coder supported by the support member and movable with the support member relative to the base (figure 1, reference 13-14); a plurality of abutment members between the support member and the base, wherein the abutment members are configured to limit the spacing between the support member and the base (figure 1, reference 32, 41); wherein a first abutment member spaces the support member from the base in a first operating position, and wherein a second abutment member spaces the support member from the base in a second operating position (column 2, lines 32-60)
- {claim 19} wherein the support member is pivotally coupled to the base (figure 1, reference 12)

- {claim 20} further comprising a latch mechanism selectively locking the support member to the base so that the support member is substantially immovable with respect to the base (figure 2, reference 25-26)
- {claim 21} wherein the latch mechanism is operable to selectively lock and unlock the support member without using tools (figure 2, reference 25-26)
- {claim 24} wherein the plurality of abutment members comprises a plurality of set screws (figure 1-2, reference 32, 41)
- {claim 26} further comprising an adjustment mechanism coupled between the coder and the support member and configured to adjust the position of the coder with respect to the base (figure 1, reference 35, 41)
- {claim 27} wherein the adjustment mechanism is operable to move the coder along a substantially horizontal and along a substantially vertical axis without using tools (figure 1)
- {claim 28} wherein the adjustment mechanism is operable to permit rotation of the coder about a substantially vertical axis (figure 1)
- {claim 29} wherein the coder is supported by the support member in a substantially upright orientation (figure 1, reference 13)
- {claim 43} wherein the adjustment mechanism is operable to move the coder along the substantially horizontal axis and the substantially vertical axis without using tools (figure 1)
- {claim 44} wherein the base has a bottom surface supported by a machine surface, and wherein the support member is cantilevered from the base

and spaced from the machine surface such that no portion of the support member or the coder is in contact with the machine surface (figure 1, reference 12)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronson et al (US Pat 4566382) in view of Ryan (US Pat 6469729).

Bronson et al discloses, with respect to claims 15 and 30, a coder assembly (as applied to claims 3 and 17 above).

Bronson et al differs from the claimed invention in that it does not disclose that the coder is a laser coder.

Ryan discloses a laser coder (column 1, lines 11-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Ryan into the invention of Bronson et al. The motivation for the skilled artisan in doing so is to gain the benefit of preventing ink smudging.

Allowable Subject Matter

Claims 41-42 are allowed.

Claims 11 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 3-4, 6-17, 19-21, 23-24, 26-30, and 41-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Geurtsen et al (US Pat 4000690) discloses a printing coder.

Lala et al (US Pat 4304180) discloses a bottle printer.

Tielrooy (US Pat 4936208) discloses an apparatus for printing objects such as cups made from synthetic materials.

Hagerman (US Pat 3220344) discloses a turret type bottle stenciling device.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2853

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD S. LIANG whose telephone number is (571)272-2148. The examiner can normally be reached on 8:30-5 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

02/03/08

LSL

Art Unit: 2853

/Stephen Meier/

Supervisory Patent Examiner, Art Unit 2853